

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3545

IN THE MATTER OF:

Served August 20, 1990

Application of ATE MANAGEMENT AND )  
SERVICE COMPANY, INC., for a )  
Certificate of Public Convenience )  
and Necessity Authorizing Charter )  
Service -- Friendship Heights )  
Village Council )

Case No. AP-90-19

By application filed April 27, 1990, ATE Management and Service Company, Inc. (ATE or applicant), seeks a certificate of public convenience and necessity authorizing transportation of passengers in charter operations pursuant to contract with Friendship Heights Village Council (the Council) between specified points in Montgomery County, MD.

Applicant proposes a shuttle "express and shopping service" servicing: (1) Chevy Chase Center (Friendship Heights Shuttle Bus Stop); (2) Sovran Bank, 4411 South Park Avenue; (3) Willoughby Apartments (main entrance), 4515 Willard Avenue; (4) 4620 North Park Avenue; (5) 4601 North Park Avenue; (6) Carlton, 4550 North Park Avenue; (7) Willoughby Apartments (Friendship Heights entrance); (8) Highland House West, 4550 South Park Avenue; (9) Highland House North, 5480 Wisconsin Avenue; and (10) Friendship Heights Metro Station. All service points are located in Montgomery County, MD. The proposed "express service" would operate at 20 minute intervals, Monday through Friday during rush hour between 7 a.m. and 8:30 a.m. and between 5 p.m. and 7 p.m. The proposed "shopping service" would operate every 30 minutes, Monday through Friday between 9 a.m. and 4:30 p.m. and Saturday between 9 a.m. and 7 p.m.

A public hearing was held on June 28, 1990, pursuant to Order No. 3501, served May 15, 1990, and incorporated herein by reference. Applicant presented one witness who testified on behalf of ATE. A representative of Friendship Heights Village Council testified in support of the proposed operations. The application was unopposed.

SUMMARY OF EVIDENCE

ATE currently holds WMATC Certificate No. 157 which authorizes the transportation of persons in charter operations pursuant to contract with Montgomery County between specified points in Montgomery County, MD. ATE was granted temporary authority to perform the service proposed in this application by Order No. 3497, served May 3, 1990, effective May 4, 1990.

Mr. Richard C. Clair is senior vice president of ATE's transit contracting division. He testified that applicant is a transit management firm established in 1969 for the purpose of providing professional transportation services to public transit carriers. ATE was subsequently acquired by Ryder System, Inc., of Miami, FL, and now operates as a wholly-owned subsidiary of Ryder. The company is organized into four divisions: transit management, management consulting, transit contracting, and fleet maintenance. The proposed operations fall under the transit contracting division. Within this division, ATE uses its own assets and employees to perform passenger transportation in regulated and nonregulated environments. Currently the division conducts 38 operations pursuant to contract in 11 states throughout the United States.

The proposed operations would be performed using one 1990 27-passenger vehicle equipped with a cellular phone. A second 27-passenger vehicle would be used for back-up purposes. Applicant's vehicles undergo a tri-level preventive maintenance program with checks performed at 4,000-, 12,000-, and 24,000-mile intervals. Maintenance is performed at Ryder Truck Rental facilities located in Rockville, MD. Two daily safety inspections are also conducted. Applicant's drivers undergo a rigorous training program which includes 88 hours of written and on-the-road testing. Drivers are required to have clean driving records and submit three references. Employees receive up to 16 hours of in-service training per year. Drivers involved in "preventable" accidents are automatically placed back into training. The project manager, based in Rockville, MD, is responsible for hiring, firing, and supervising employees. She is also responsible for overseeing maintenance of vehicles and general safety matters. One full-time and two part-time drivers are assigned to the Friendship Heights contract.

ATE's contract with the Council is for a term of three years. The contract provides for future modifications pertaining to service area, schedules, and hours of service. Applicant would receive \$29.09 per service hour during the first year of the agreement, \$30.31 per service hour during the second year of the agreement, and \$31.58 per service hour during the third year of the agreement. Friendship Heights would pay ATE an increased rate for service performed at its request on holidays and outside normal hours. No fare would be charged passengers using this service.

ATE's balance sheet as of December 31, 1989, shows current assets of \$14,108,058; fixed assets after allowance for depreciation of \$11,811,773; and other assets of \$13,095,540. Current liabilities of \$6,090,491; long-term liabilities of \$12,129,732; and equity of \$20,795,148 are listed. Applicant's operating statement for the 12 months ended December 31, 1989, lists \$770,865 in WMATC operating income; \$62,482,290 in other operating income; and \$62,981,216 in operating expenses, including depreciation and taxes. For the first nine months of contract operations, applicant expects to generate income of \$69,890 and incur operating expenses, including depreciation and taxes, of \$68,763, yielding a net income of \$1,127.

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1/ Corrected for mathematical error.

Mr. Clair testified that ATE is currently abiding by the Compact and the rules and regulations of this Commission, including its safety regulations, and plans continued compliance.

Mr. Dennis B. Melby testified in support of the application as the authorized representative of the Council. The Council is the governing body of the special tax district of Friendship Heights. Friendship Heights is located at the intersection of Willard and Wisconsin Avenues in Montgomery County, MD, and has a population of approximately 5,000. One-half of the residents are over the age of 55. A large number of older residents are infirm and greatly benefit by transportation assistance. To help meet the needs of its residents the Council makes passenger feeder service available to and from residential points, the metro bus and rail stations, and nearby shopping areas. The Council provided the feeder service through another WMATC-authorized carrier for 10 years. During that period operations were conducted in a vehicle owned by the Council. However, as the vehicle aged, increased upkeep, including major maintenance, became necessary. As a result, the Council began looking for a reputable operator that could perform operations in a new vehicle owned by the carrier. As a result of its search, the Council selected applicant. Mr. Melby testified that the Council is satisfied with ATE's performance under its grant of temporary authority.

#### DISCUSSION AND CONCLUSIONS

This matter is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant for a certificate of public convenience and necessity prove it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case, the Commission finds that ATE has met its statutory burden. Accordingly, the application will be granted.

ATE has significant experience in providing passenger transportation. It has detailed driver training and vehicle maintenance programs. ATE has performed the proposed operations to the Council's satisfaction under a grant of temporary authority. The company is financially sound and expects to make a profit from the proposed operations. ATE, through Mr. Clair, testified that it will continue to abide by the Compact and the Commission's rules and regulations including its safety regulations.

The witness representing the Council testified that feeder transportation services have been made available by Friendship Heights for 10 years. The services provide transportation to a geographic area that houses a high number of older residents. All 5,000 residents of the special tax district are eligible for ridership. Since applicant

is seeking authority to serve a single account, the testimony of the Council's representative provides sufficient evidence that the proposed service is required by the riding public.

THEREFORE, IT IS ORDERED:

1. That ATE Management and Service Company, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers between points in Montgomery County, MD, in charter operations pursuant to contract with Friendship Heights Village Council, dated February 15, 1990, together with any continuous extensions, amendments, or modifications thereto.

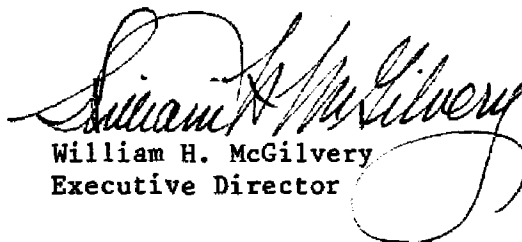
2. That ATE Management and Service Company, Inc., is hereby directed to file within 30 days of the service date of this order: (a) an affidavit of identification of vehicles in accordance with Commission Regulation No. 67, for which purpose WMATC No. 157 has been assigned; (b) an equipment list indicating make, model, serial number, vehicle identification number, and license plate number (with jurisdiction) for each vehicle to be used in WMATC operations; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69, as appropriate, for each vehicle to be used to serve the account of Friendship Heights Village Council; and (d) two copies of its WMATC Tariff No. 2.

3. That unless ATE Management and Service Company, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety upon the expiration of the said compliance time.

4. That, upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to ATE Management and Service Company, Inc., in the form and as worded in the Appendix to this order.

5. That, upon issuance of a certificate of public convenience and necessity to ATE Management and Service Company, Inc., the temporary authority granted by Order No. 3497, served May 3, 1990, shall stand terminated.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director

NO. 157

ATE MANAGEMENT AND SERVICE COMPANY, INC.

By Order Nos. 3408 and 3545 of the Washington Metropolitan Area Transit Commission issued September 18, 1989, and August 20, 1990, respectively;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order Nos. 3408 and 3545;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

PART A

CHARTER OPERATIONS pursuant to contract with Montgomery County, MD, between points in Montgomery County, MD, pursuant to contract dated March 6, 1989, together with any continuous extensions, amendments, or modifications thereto.

PART B

CHARTER OPERATIONS pursuant to contract with Friendship Heights Village Council, Montgomery County, MD, pursuant to contract dated February 15, 1990, together with any continuous extensions, amendments, or modifications.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of this certificate.